

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STATES OF NEW JERSEY, CONNECTICUT,
DELAWARE, NEW YORK, THE
COMMONWEALTH OF MASSACHUSETTS and
CITY OF NEW YORK,

Plaintiffs,

20 CIVIL 1425 (JGK)

-against-

JUDGMENT

ANDREW WHEELER, in his official
capacity as Acting Administrator of the
United States Environmental Protection Agency, and
the UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Defendants.

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It is hereby ORDERED, ADJUDGED AND DECREED:

That for the reasons stated in the Court's Opinion and Order dated July 28, 2020, the Court GRANTS Plaintiffs' Motion for Summary Judgment. In the July 28 Opinion and Order, the Court declared "that the EPA has not fully performed its nondiscretionary duty to promulgate FIPs that fully discharge the Good Neighbor obligations for the Upwind States with respect to the 2008 ozone NAAQS. For that reason, summary judgment in favor of the plaintiffs is appropriate as to liability." The Court thereafter ordered Defendants "to resolve the EPA's statutory duty to promulgate FIPs fully addressing the Good Neighbor obligations of the Upwind States with respect to the 2008 ozone NAAQS through a final rulemaking issued by March 15, 2021." In this regard, "issued" means a final rule signed by the Administrator of EPA, to be submitted no later than March 19, 2021 for publication in the Federal Register.

In accordance with 42 U.S.C. § 7604(d) and the Court's July 28, 2020 Opinion and Order, the Court AWARDS plaintiffs their costs of litigation, including reasonable attorneys' fees, including costs and fees incurred subsequent to entry of the July 28, 2020 Opinion and Order, in an amount to be determined as follows: The parties will submit within 90 days of the date of entry of this judgment either: (1) a joint stipulated order to be entered by the Court setting forth the amount of fees to be awarded, or (2) a status update to the Court. Should the parties be unable to come to agreement on the amount of fees, they will notify the Court in the status update, and then plaintiffs will have 30 days from the expiration of the 90-day period to submit their fee application to the Court. In the event of a lapse in appropriations to fund the United States Department of Justice and/or the United States Environmental Protection Agency resulting in furlough of the staff handling this case prior to the expiration of the 90-day period, that 90-day period will be automatically extended by a time period equal to the duration of any such lapse in appropriations.

The Court will retain jurisdiction of the case to enforce this judgment.

Dated: New York, New York
August ____, 2020

BY: _____
John G. Koeltl
United States District Judge